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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,346	09/13/2004	George Manak	76385.0015	5345

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EXAMINER	
TRAN LIEN, THUY	
ART UNIT	PAPER NUMBER
1781	
MAIL DATE	DELIVERY MODE
06/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/711,346	MANAK ET AL.	
	Examiner	Art Unit	
	Lien T. Tran	1781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-26 and 28-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *18* is/are allowed.

6)☒ Claim(s) *15-17,19-23 and 28-32* is/are rejected.

7)☒ Claim(s) *24 and 25* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claims 15, 28 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, the term " adjacent thereto" is indefinite because it is unclear what sort of distance constitutes adjacent. Adjacent can mean " attach to or close by or nearby, side by side etc..". The distance intended for by the term " adjacent" in the claim is not known; thus, the claim is indefinite. (For prior art application, adjacent is interpreted to mean " attach to" because figure 1A shows the cutter 480 to be attached to the extruder 460.

Claims 28 and 32 have the same problem as claim 15.

The new rejection is necessitated by amendment.

Claims 15-17, 19-23,26,28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens et al in view of Cross and Huber et al.

Stevens et al disclose a system comprising an extruder for extruding a mixture, a segmenter for cutting the extrudate, a drier for drying the segments, a mill for milling to provide granules, a sieve for screening and sorting the granules. The system also can include a mixer to make an extrudable mixture. The segmenting is achieved by using a cutting means which can be a wire or knife. The dryer can be a fluid bed dryer and the extruder can be heated. (see columns 4-5)

The segmenter and mill in the Stevens et al system are equivalent to the coarse cutting and fine cutting. The sieve is equivalent to the claimed sizing device.

Stevens et al do not disclose an extruder comprising a cutter, a second dryer downstream of the comminuting device, cutting station or cutting means, a tempering chamber, plurality of pneumatic conveying lines and bypassing lines.

Cross discloses a system for making snack product. The system comprises a pre-conditioner, and extruder, a first dryer, a first cyclone separator, a second cyclone separator, a conveyor assembly and a spraying mechanism. The system contains a cutter for cutting a cooked extrudate as it emerges from the extruder; the cutter is connected to the extruder. When the use of a second drying apparatus is not feasible, the product can be returned to the first drying apparatus for further drying. The system comprises two cyclone separators, any apparatus capable of pneumatically transferring and thus agitating the material can be used. The pieces are pneumatically transferred.

Huber et al disclose an apparatus for extrusion and dehydration. They disclose an extruder in which a rotating knife assembly is position adjacent the outlet of the die for cutting the extrudate into a convenient size. Figure 1 shows a die assembly (20) attached to the extruder containing the cutter (54) (see example 1)

The amendment does not define over the prior art because both Cross and Huber et al disclose extruder having a cutter adjacent thereto. It would have been obvious to one skilled in the art to use an extruder having a cutter as taught by Cross and Huber et al. to cut the extrudate into convenient size at it emerges the extrudate to make processing more efficient when using the Stevens et al system because the extrudate will have shorter length before entering further processing. The extruder disclosed in Cross and Huber et al comprises a cutter. Paragraph 38 of the

specification discloses the cutter 480 is attached adjacent to the die of the extruder 460. Both the cutters in Cross and Huber extruding systems are attached adjacent to the die connected to the extruder. It would have been obvious to one skilled in the art to include a second dryer as taught by Cross in the Stevens et al system when it is desired to further dry the granular product. Adding additional dryer depends on the type of end product made and the moisture content wanted for that product. It would have been obvious to place the dryer downstream or after the cutter when the purpose of the additional dryer is to further dry the granular product in the Stevens et al system. Stevens et al already teach a dryer for drying the segmented product. Determination of the placement of additional dryer depending on the moisture wanted for the final product would have been a result-effective variable that is well within the determination of one skilled in the art. It would also have been obvious to include a cyclone separator as taught by Cross to enable the separation of unwanted material ; one would have been motivated to add the separator to obtain a purer end product. The placement of the particular device in the system depends on what is deemed convenient and the type of product made. This placement can readily be determined by one skilled in the art without undue experimentation. It would have been obvious to by-pass the second cutter or grinder depending on the ultimate size of the end product desired. It would have been obvious to use pneumatical transfer as taught by Cross to facilitate the transferring process.

Claims 24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims. Claim 18 is free of prior art. Applicant's argument is persuasive with respect to the inclusion of a grinder downstream of a second dryer. There is no disclosure or suggestion to add a grinder to the Stevens' system.

In the response filed 4/2/10, applicant argues one skilled in the art would not confuse the segmenter of Stevens that cuts the extrudate with a comminuting device separate from the extruder. Applicant's argument is not persuasive. The segmenter in Stevens is used for cutting; it is not a part of the extruder and is totally separate from the extruder. Thus, it is an extruder containing a cutter. Applicant points out that the segmenter is in close proximity to the outlet. Close proximity does not mean it is right by the outlet of the extruder or attached to the outlet of the extruder. The mixture in the Stevens process passes through the extruder and then goes to the segmenter; thus, the segmenter is not attached to the extruder and is downstream from the extruder. Contrary to applicant's statement, the segmenter of Steven is not attached to the extruder; thus, the segmenter is different from the cutter which is an integral part of the extruder in Cross and Huber. The amendment does not overcome the rejection as set forth in the rejection above. Adjacent as claimed means attached to the extruder as shown in figure 1A and both Cross and Huber teach this feature.

Applicant's arguments filed 4/2/10 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 10, 2010

/Lien T Tran/

Primary Examiner, Art Unit 1781